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| 09/319,649 | 06/10/1999 | TOMIHISA KAMADA | Y-163 | 3408 |

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EXAMINER

TRAN, HAI V

| ART UNIT | PAPER NUMBER |
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2611

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/319,649

Applicant(s)

KAMADA ET AL.

Examiner

Hai Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 05/02/03 have been fully considered but they are not persuasive.

Claims 1-3, 5-8 and 10-13; Applicant argues, "... However, this understanding of the Welsh document by the Examiner is respectfully submitted to be incorrect because the program ID in Welsh is encoded in the received television signal as character strings and a decoder (18) simply detect it, as clearly described in col. 5, lines 47-59 of the Welsh reference."

In response, the Examiner agrees with Applicant that the program ID in Welsh is encoded in the received television signal as character strings. However, the Examiner respectfully disagrees with Applicant's assertion that "a decoder (18) simply detects it, as clearly described in col. 5, lines 47-59 of the Welsh reference." Welsh discloses, "the decoder 18 produces the character strings that are encoded in the television signal" at Col. 5, lines 47-48 but not "simply detects it" as suggested by Applicant.

Welsh, at Col. 14, lines 30-40, suggests that "The information that is retrieved from the households is stored in a viewing table 200 that contains the household identification number 202, the panel identification number 204... and the program identification code 206 along with the time 208 and the date 210 that the program was identified as having been viewed in the home." Thus, Welsh household system must identify a program ID of the viewed program and must compare it with the channel and

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time information of the TV program table data so the central computer could collect data as described in Fig. 7, el. 200.

As to claim 3, Applicant argues, "...Herz merely discloses the use of the Internet but fails to show the "making use of opportunities of the viewer's access the Internet". It is only in applicant's specification that this feature is found or suggested."

In response to applicant's argument that "It is only in applicant's specification that this feature is found or suggested", it is noted that the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In this case, Herz does take the opportunity of making use of the Internet to perform any functions as needed by a user.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-3, 5-8 and 10-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (US 5758257) in view of Welsh (US 5374951) and further in view of Williams et al. (US 5977964).

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Regarding claim 1, Herz discloses a method for obtaining audience data on TV programs (Col. 6, lines 35-Col. 7, lines 5), in an audience data-obtaining device, which uses a computer, the method comprises:

Obtaining, from outside, TV program table data (program list; Fig. 9, Col. 45, lines 14-20) for an area where viewer resides (demographics; Col. 11, lines 58-65+).

Detecting a channel that is being viewed by the viewer (Col. 26, lines 57-62);

Herz do not clearly disclose "Detecting times at which a viewing of the channel is started and ended"; "Identifying a program ID of currently viewed program from the TV program table data by comparing the detected channel and current time with the channel and time information of the TV program table data" and "Obtaining audience data which include at least the program ID and viewed time information of the viewed program based on the TV program table data and results of the detecting of times, the viewed time information including at least one of the (1) a view start time of each viewed program, (2) a view end time of each viewed program and (3) a difference between the view start time and the view end time; and transferring, via the Internet to a collection center, the obtained audience data along with ID data of the viewer." However, Herz discloses obtaining audience data (Col. 26, lines 57-Col. 27, lines 5; the customer profile is adjusted according to user selection of video program watched), which include viewed channel information and viewed time information of TV based on result of the detecting of the viewed channel (Col. 4, lines 59-Col. 5, lines 4); and obtaining at least a program ID (particular video descriptive; Col. 4, lines 65+) of a viewed program from the TV program table data,

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by comparing the audience data (user profile) with the TV program table data (Col. 26, lines 57-Col. 27, lines 5).

Welsh teaches detecting times at which a viewing of the channel is started and ended (the household system must detects times at which a viewing of the channel is started and ended so the Central computer could maintained a database of collected event from each household that include times at which a viewing of the channel is started and ended; see Fig. 7, element 200; Col. 6, lines 5-15 and col. 14, lines 32-40); Identifying a program ID of currently viewed program from the TV program table data by comparing the detected channel and current time with the channel and time in formation of the TV program table data (Welsh household system must compare the detected channel and current time with the channel and time in formation of the TV program table data so the central computer could collect data as described see Fig. 7, element 200; Col. 14, lines 32-40) and obtaining audience data which include at least the program ID and viewed time information of the viewed program based on the TV program table data and results of the detecting of times, the viewed time information including at least one of the (1) a view start time of each viewed program, (2) a view end time of each viewed program and (3) a difference between the view start time and the view end time see Fig. 7, element 200; (Col. 14, lines 32-40); and transferring, via the telephone line to a collection center (central computer), the obtained audience data along with ID data of the viewer (Col. 6, lines 1-15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz with the features claimed, as taught by Welsh, so to provide an alternative way of collecting data that allows businesses to test and experiment with a marketing strategy in a limited geographic area before committing to a full launch of the proposed marketing plan (Col. 1, Background of the invention)

Herz and Welsh do not clearly disclose transferring, via Internet to a collection center, the obtained program ID and the viewed time information along with ID data of viewer. However, Herz discloses the customer profile data and viewing habit data collected at set top box is periodically uploaded to the headend via return path 510 of Fig. 5 and 10 (Col. 42, lines 1-11) and Welsh discloses the event log is transferred via the telephone line to a collection center (central computer), the obtained audience data along with ID data of the viewer (Col. 6, lines 1-15).

Williams discloses user profile is collected at PC then transmits back to the Web server through Internet (Fig. 1, element 104 and 128; Col. 6, lines 17-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Welsh to use Internet to transfer user profile, as taught by Williams, so to provide to user a flexibility to configure its system to store or to retrieve entertainment programming information from a wide variety of sources (Col. 3, lines 13-15).

Regarding claim 2, Herz (Col. 41, lines 15-42) and Williams (Col. 8, lines 48-65+) further disclose the step of obtaining TV program table (program list) include

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automatically and regularly obtaining the TV program table data by use of the Internet or a broadcasting medium and the step of transferring includes automatically and regularly performing the transmission to the collection center.

Regarding claim 3, with respect to the same analysis to claim 2, Herz (Col. 51, lines 5-8) and Williams (Col. 8, line 51) further disclose by making use of opportunities of the viewer's accessing the Internet.

Regarding claims 5 and 10, Williams discloses a "convergence system" designed to integrate the world of entertainment system and computing platforms to achieve the beneficial results discussed. Therefore, Williams's system must have the capability to transfer/transmit data having an HTML format using Internet connection as disclosed (see analysis of claim 1).

Regarding claims 6 and 11, the apparatus claim is analyzed with respect to method claim 1.

Regarding claim 7, the apparatus claim is analyzed with respect to method claim 2.

Regarding claim 8, the apparatus claim is analyzed with respect to method claim 3.

Regarding claims 12 and 13, see analysis of claim 3.

Regarding claims 14-16, as to limitation " wherein the TV program table is a matrix data table which defines program ID' s of programs specified by channels in one axis of the matrix and time zones in another axis" is met by Herz' electronic program guide (Fig. 1, el. 102) and Williams 's program data base (Fig. 9).

Regarding claim 17, method claim 17 is analyzed with respect to claims 1 and 3.

Claim 18 recites "wherein the step of transferring is performed during an operation of a WWW browsing software" read on the system control agent 704 periodically transmits a copy of the behavior log to the remote server for data compilation purpose, see Williams Col. 16, lines 19-26. Because, without connecting to the Internet (using a Browser), Williams' s system could not transmit a copy of the behavior log to the remote server.

Claim 19 recites; "Wherein unsent audience data is transmitted upon request for terminating the operation of the WWW browsing software" is obvious in view of Williams (Col. 16, lines 19-26). Williams discloses the system control agent 704 periodically transmits a copy of the behavior log to the remote server for data compilation purpose. Williams does not specifically disclose that the latest copy of the behavior log is transmitted upon terminating the operation of the WWW browser. Therefore, it would have been obvious to one of ordinary skill in the art to transmit to the remote server the latest/unsent behavior log to the remote server upon request for terminating the operation of the WWW browser so to the provider could obtain the most accurate user behavior log for compilation purpose.

Claim 20 recites, "further comprising a step of connecting to the Internet before the step of transferring" reads on Williams (Col. 16, lines 19-26). Because, Williams 's system has to be connect to the Internet first in order to perform the function as disclose.

Claim 21 recites, "wherein the step of obtaining TV program table data is achieved by making use of opportunities of the viewer's accessing the Internet," reads on Williams (Col. 8, lines 48-52).

Apparatus claim 22 is analyzed with respect to device claims 6 and 8.

Apparatus claim 23 is analyzed with respect to method claim 18.

Claim 24 recites a recording medium storing a computer readable program is analyzed with respect to recording medium in claim 11 in view of method claim 3.

Claim 25 is analyzed with respect to method claim 18.

2. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (US 5758257) in view of Welsh (US 5374951) and further in view of Williams et al. (US 5977964) and further in view of Rothmuller (US 5635989).

Regarding claims 4 and 9, Herz, Welsh and Williams do not clearly disclose the step of obtaining audience data includes ignoring a continuously viewed time of a program when the viewed time is shorter than a predetermined time.

Rothmuller shows a system to obtain/store a viewed program in the favorite list if the program is viewed for more than a predetermined period of time (Fig. 4, Col. 5, lines 59-66). Programs that user merely scan through are excluded from the favorite list. Therefore, it would have been obvious to modify Herz in view of Welsh and Williams to obtain only viewed program for more than a predetermined period of time, as taught by Rothmuller, so to insure that the user has more than just a passing interest in the program.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Contact Fax Information

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or Faxed to:

(703) 872-9314 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Contact Information

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (703) 308-7372. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377

HT:ht
7/13/03



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